



Georgia Department of Revenue
Informational Bulletin SUT 2009-10-28
Recovery of Sales and Use Tax Erroneously Paid on Qualifying
Manufacturing Machinery and Equipment Purchases Made During the
Period of January 1, 2009 through December 31, 2009

- 1) **Purpose/Subject:** This informational bulletin explains how taxpayers may recover sales and use tax erroneously paid on qualifying purchases of manufacturing machinery, and equipment made during the period of January 1, 2009 through December 31, 2009.
- 2) **Effective Date:** October 1, 2009.
- 3) **Supersedes:** All previous documents and any oral directives in conflict herewith.
- 4) **Authority:** O.C.G.A. §§ 48-8-3; 48-2-35; 48-2-35.1
- 5) **Scope:** An informational bulletin is intended to provide guidance to the public and to Department personnel. It is a written statement issued to apply principles of law to a specific set of facts or a general category of taxpayers. An informational bulletin does not have the force or effect of law, and is not binding on the public. It is, however, the Department's position and is binding on agency personnel until superseded or modified by a change in statute, regulation, court decision, or advisory opinion.
- 6) **Issue:** How may a taxpayer recover sales and use tax erroneously paid on qualifying purchases of manufacturing machinery and equipment made during the period of January 1, 2009 through December 31, 2009?
- 7) **Discussion of Issue**

A taxpayer may recover sales or use taxes erroneously paid on qualifying manufacturing machinery and equipment purchases made during the period of January 1, 2009 through December 31, 2009 by either taking a deduction on a current period sales and use tax return, or by filing a claim for refund with the Department.

Deduction Taken on Current Period Return

The Department will allow taxpayers a limited opportunity to recover sales and use taxes erroneously paid on qualifying purchases of manufacturing machinery and equipment (as defined in Ga. Comp. R & Regs. 560-12-2.-62) by taking a deduction for the erroneously paid tax on a current sales and use tax return. Such deduction may include both use taxes accrued and remitted, and sales taxes paid to a vendor in error, on eligible purchases of manufacturing machinery and equipment made during the period January 1, 2009 through December 31, 2009. For purposes of this deduction *only*, Georgia Form ST-12A – Waiver of Vendor's Rights is not required to be obtained from vendors where sales tax was paid in error.

An allowable deduction must be calculated in its entirety and *first* taken on any sales and use tax return for the periods October 1, 2009 through December 31, 2009. Such deduction is not permitted to be taken on *any* sales and use tax return filed subsequent to the December 2009 return *unless* a deduction was *first* calculated and taken on a return for the periods October, November, or December 2009 and there is some remaining deduction amount, which amount can then be carried forward into 2010 until used up.

All deductions will be taken without interest. The deduction amount may be reflected on a monthly/quarterly sales and use tax return by making an adjustment to taxable sales or purchases by state and local jurisdictions as applicable, without reducing the tax amount due below zero – filing a sales and use tax return for a negative amount is not permitted. Taxpayer is responsible for maintaining adequate records to support any deduction taken. Please see the examples below:

Examples:

Assumptions/Requirements: Eligible purchases and the sales and use tax due is for the *same* local jurisdiction. The deduction must properly account for the correct distribution of state and local taxes – Specifically, the taxpayer must account for and allocate the respective state and local portions of the deduction separately.

- During October 2009, taxpayer has calculated a deduction amount of \$1,000 for eligible purchases, and has sales and use taxes due of \$5,000. Taxpayer may deduct the entire \$1,000 on their October 2009 sales and use tax return.
- During October 2009, taxpayer has calculated a deduction amount of \$1,000 for eligible purchases, and has sales and use taxes due of \$500. Taxpayer may deduct \$500 on their October 2009 sales and use tax return, and must take the remaining deduction each successive period until the deduction is fully exhausted. If at any point after taking the initial deduction the taxpayer no longer has sufficient sales and use taxes due for the applicable local

jurisdiction, the taxpayer may file a refund claim for the remaining amount as instructed below.

- During October 2009, taxpayer has calculated a deduction amount of \$1,000 for eligible purchases, and does not have any sales and use taxes due and does not expect to have any sales and use taxes due during 2009. Taxpayer should file a claim for refund as instructed below.
- During February 2010, taxpayer calculates a deduction amount of \$1,000 for eligible purchases made during 2009. No deduction is permitted since the deduction was not calculated in its entirety and *first* taken on any sales and use tax return for the periods October 1, 2009 through December 31, 2009. Taxpayer must file a claim for refund as instructed below.

Assumptions/Requirements: Eligible purchases and the sales and use tax due is for the *different or multiple* local jurisdictions. The deduction must properly account for the correct distribution of state and local taxes – Specifically, the taxpayer must account for and allocate the respective state and local portions of the deduction separately.

- During October 2009, taxpayer has calculated a deduction amount of \$1,000 for eligible purchases all related to their location in Gwinnett County. Taxpayer has \$1,500 in sales and use taxes due, but only \$600 of those taxes due relate to their location in Gwinnett County. Taxpayer may only deduct \$600 (\$400 state and \$200 local since Gwinnett has a 6% state and local rate) on their October 2009 sales and use tax return, and must take the remaining deduction in each successive period as available until the deduction is fully exhausted. If at any point after taking the initial deduction the taxpayer no longer has sufficient sales and use taxes due for the applicable local jurisdiction, the taxpayer may file a refund claim for the remaining amount as instructed below.

Claim for Refund

A refund of sales and use taxes may be requested by submitting a Claim for Refund (Form ST-12) and a Waiver of Vendor's Rights (Form ST-12A), as applicable, in the form and within the time limit provided in O.C.G.A. § 48-2-35. Any sales and use tax that is later determined to have been paid in error shall be refunded with interest subject to the provisions in O.C.G.A. §§ 48-2-35 and 48-2-35.1.

(Last updated: October 28, 2009)

FOR MORE INFORMATION

For more information on this subject, contact the Taxpayer Services Division at 404-417-4300, from 8:00 am to 4:30 pm ET, Monday through Friday, excluding holidays.

Persons with hearing or speech impairments may call our TDD number at 404-417-4302.

For forms and other information, visit our website (www.dor.ga.gov).